

112TH CONGRESS  
1ST SESSION

# S. 401

To help Federal prosecutors and investigators combat public corruption by strengthening and clarifying the law.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2011

Mr. LEAHY (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To help Federal prosecutors and investigators combat public corruption by strengthening and clarifying the law.

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Public Corruption  
3 Prosecution Improvements Act”.

4 **SEC. 2. EXTENSION OF STATUTE OF LIMITATIONS FOR SE-**  
5 **RIOUS PUBLIC CORRUPTION OFFENSES.**

6       (a) IN GENERAL.—Chapter 213 of title 18, United  
7 States Code, is amended by adding at the end the fol-  
8 lowing:

1 **“§ 3299A. Corruption offenses**

2 “Unless an indictment is returned or the information  
3 is filed against a person within 6 years after the commis-  
4 sion of the offense, a person may not be prosecuted, tried,  
5 or punished for a violation of, or a conspiracy or an at-  
6 tempt to violate the offense in—

7 “(1) section 201 or 666;

8 “(2) section 1341 or 1343, when charged in  
9 conjunction with section 1346 and where the offense  
10 involves a scheme or artifice to deprive another of  
11 the intangible right of honest services of a public of-  
12 ficial;

13 “(3) section 1951, if the offense involves extor-  
14 tion under color of official right;

15 “(4) section 1952, to the extent that the unlaw-  
16 ful activity involves bribery; or

17 “(5) section 1962, to the extent that the racket-  
18 eering activity involves bribery chargeable under  
19 State law, involves a violation of section 201 or 666,  
20 section 1341 or 1343, when charged in conjunction  
21 with section 1346 and where the offense involves a  
22 scheme or artifice to deprive another of the intan-  
23 gible right of honest services of a public official, or  
24 section 1951, if the offense involves extortion under  
25 color of official right.”.

1 (b) CLERICAL AMENDMENT.—The table of sections  
 2 at the beginning of chapter 213 of title 18, United States  
 3 Code, is amended by adding at the end the following:

“3299A. Corruption offenses.”.

4 (c) APPLICATION OF AMENDMENT.—The amend-  
 5 ments made by this section shall not apply to any offense  
 6 committed before the date of enactment of this Act.

7 **SEC. 3. APPLICATION OF MAIL AND WIRE FRAUD STATUTES**  
 8 **TO LICENCES AND OTHER INTANGIBLE**  
 9 **RIGHTS.**

10 Sections 1341 and 1343 of title 18, United States  
 11 Code, are each amended by striking “money or property”  
 12 and inserting “money, property, or any other thing of  
 13 value”.

14 **SEC. 4. VENUE FOR FEDERAL OFFENSES.**

15 (a) IN GENERAL.—The second undesignated para-  
 16 graph of section 3237(a) of title 18, United States Code,  
 17 is amended by adding before the period at the end the  
 18 following: “or in any district in which an act in further-  
 19 ance of the offense is committed”.

20 (b) SECTION HEADING.—The heading for section  
 21 3237 of title 18, United States Code, is amended to read  
 22 as follows:

1 **“§ 3237. Offense taking place in more than one dis-**  
 2 **trict”.**

3 (c) TABLE OF SECTIONS.—The table of sections at  
 4 the beginning of chapter 211 of title 18, United States  
 5 Code, is amended so that the item relating to section 3237  
 6 reads as follows:

“3237. Offense taking place in more than one district.”.

7 **SEC. 5. THEFT OR BRIBERY CONCERNING PROGRAMS RE-**  
 8 **CEIVING FEDERAL FINANCIAL ASSISTANCE.**

9 Section 666 of title 18, United States Code, is  
 10 amended—

11 (1) in subsection (a)—

12 (A) in paragraph (1)(B), by—

13 (i) striking “anything of value” and  
 14 inserting “any thing or things of value”;  
 15 and

16 (ii) striking “of \$5,000 or more” and  
 17 inserting “of \$1,000 or more”;

18 (B) by amending paragraph (2) to read as  
 19 follows:

20 “(2) corruptly gives, offers, or agrees to give  
 21 any thing or things of value to any person, with in-  
 22 tent to influence or reward an agent of an organiza-  
 23 tion or of a State, local or Indian tribal government,  
 24 or any agency thereof, in connection with any busi-  
 25 ness, transaction, or series of transactions of such

1 organization, government, or agency involving any-  
2 thing of value of \$1,000 or more;” and

3 (C) in the matter following paragraph (2),  
4 by striking “ten years” and inserting “15  
5 years”; and

6 (2) in subsection (c)—

7 (A) by striking “This section does not  
8 apply to”; and

9 (B) by inserting before “bona fide salary”  
10 the following: “The term ‘anything of value’  
11 that is corruptly solicited, demanded, accepted  
12 or agreed to be accepted in subsection (a)(1)(B)  
13 or corruptly given, offered, or agreed to be  
14 given in subsection (a)(2) shall not include”.

15 **SEC. 6. PENALTY FOR SECTION 641 VIOLATIONS.**

16 Section 641 of title 18, United States Code, is  
17 amended by striking “ten years” and inserting “15  
18 years”.

19 **SEC. 7. PENALTY FOR SECTION 201(b) VIOLATIONS.**

20 Section 201(b) of title 18, United States Code, is  
21 amended by striking “fifteen years” and inserting “20  
22 years”.

1 **SEC. 8. INCREASE OF MAXIMUM PENALTIES FOR CERTAIN**  
2 **PUBLIC CORRUPTION RELATED OFFENSES.**

3 (a) SOLICITATION OF POLITICAL CONTRIBUTIONS.—  
4 Section 602(a) of title 18, United States Code, is amended  
5 by striking “three years” and inserting “10 years”.

6 (b) PROMISE OF EMPLOYMENT FOR POLITICAL AC-  
7 TIVITY.—Section 600 of title 18, United States Code, is  
8 amended by striking “one year” and inserting “10 years”.

9 (c) DEPRIVATION OF EMPLOYMENT FOR POLITICAL  
10 ACTIVITY.—Section 601(a) of title 18, United States  
11 Code, is amended by striking “one year” and inserting  
12 “10 years”.

13 (d) INTIMIDATION TO SECURE POLITICAL CON-  
14 TRIBUTIONS.—Section 606 of title 18, United States  
15 Code, is amended by striking “three years” and inserting  
16 “10 years”.

17 (e) SOLICITATION AND ACCEPTANCE OF CONTRIBU-  
18 TIONS IN FEDERAL OFFICES.—Section 607(a)(2) of title  
19 18, United States Code, is amended by striking “3 years”  
20 and inserting “10 years”.

21 (f) COERCION OF POLITICAL ACTIVITY BY FEDERAL  
22 EMPLOYEES.—Section 610 of title 18, United States  
23 Code, is amended by striking “three years” and inserting  
24 “10 years”.

1 **SEC. 9. ADDITION OF DISTRICT OF COLUMBIA TO THEFT OF**  
 2 **PUBLIC MONEY OFFENSE.**

3 Section 641 of title 18, United States Code, is  
 4 amended by inserting “the District of Columbia or” before  
 5 “the United States” each place that term appears.

6 **SEC. 10. ADDITIONAL RICO PREDICATES.**

7 (a) IN GENERAL.—Section 1961(1) of title 18,  
 8 United States Code, is amended—

9 (1) by inserting “section 641 (relating to em-  
 10 bezzlement or theft of public money, property, or  
 11 records),” after “473 (relating to counterfeiting),”;  
 12 and

13 (2) by inserting “section 666 (relating to theft  
 14 or bribery concerning programs receiving Federal  
 15 funds),” after “section 664 (relating to embezzle-  
 16 ment from pension and welfare funds),”.

17 (b) CONFORMING AMENDMENTS.—Section  
 18 1956(c)(7)(D) of title 18, United States Code, is amend-  
 19 ed—

20 (1) by striking “section 641 (relating to public  
 21 money, property, or records),”; and

22 (2) by striking “section 666 (relating to theft  
 23 or bribery concerning programs receiving Federal  
 24 funds),”.

1 **SEC. 11. ADDITIONAL WIRETAP PREDICATES.**

2 Section 2516(1)(c) of title 18, United States Code,  
 3 is amended by inserting “section 641 (relating to embez-  
 4 zlement or theft of public money, property, or records),  
 5 section 666 (relating to theft or bribery concerning pro-  
 6 grams receiving Federal funds),” after “section 224 (brib-  
 7 ery in sporting contests),”.

8 **SEC. 12. CLARIFICATION OF CRIME OF ILLEGAL GRATU-**  
 9 **ITIES.**

10 (a) DEFINITION.—Section 201(a) of title 18, United  
 11 States Code, is amended—

12 (1) in paragraph (2), by striking “and” after  
 13 the semicolon;

14 (2) in paragraph (3), by striking the period and  
 15 inserting “; and”; and

16 (3) by inserting at the end the following:

17 “(4) the term ‘rule or regulation’ means a Fed-  
 18 eral regulation or a rule of the House of Representa-  
 19 tives and the Senate, including those rules and regu-  
 20 lations governing the acceptance of campaign con-  
 21 tributions.”.

22 (b) CLARIFICATION.—Section 201(c)(1) of title 18,  
 23 United States Code, is amended—

24 (1) by striking the matter before subparagraph

25 (A) and inserting “otherwise than as provided by



1 law for the proper discharge of official duty, or by  
 2 rule or regulation—”;

3 (2) in subparagraph (A), by inserting after “,  
 4 or person selected to be a public official,” the fol-  
 5 lowing: “for or because of the official’s or person’s  
 6 official position, or for or because of any official act  
 7 performed or to be performed by such public official,  
 8 former public official, or person selected to be a pub-  
 9 lic official”; and

10 (3) in subparagraph (B)—

11 (A) by striking “otherwise than as pro-  
 12 vided by law for the proper discharge of official  
 13 duty,”; and

14 (B) by striking all after “anything of value  
 15 personally” and inserting “for or because of the  
 16 official’s or person’s official position, or for or  
 17 because of any official act performed or to be  
 18 performed by such official or person;”.

19 **SEC. 13. CLARIFICATION OF DEFINITION OF OFFICIAL ACT.**

20 Section 201(a)(3) of title 18, United States Code, is  
 21 amended to read as follows:

22 “(3) the term ‘official act’ means any action  
 23 within the range of official duty, and any decision or  
 24 action on any question, matter, cause, suit, pro-  
 25 ceeding or controversy, which may at any time be

1 pending, or which may by law be brought before any  
 2 public official, in such public official's official capac-  
 3 ity or in such official's place of trust or profit. An  
 4 official act can be a single act, more than one act,  
 5 or a course of conduct.”.

6 **SEC. 14. CLARIFICATION OF COURSE OF CONDUCT BRIB-**  
 7 **ERY.**

8 Section 201 of title 18, United States Code, is  
 9 amended—

10 (1) in subsection (b), by striking “anything of  
 11 value” each place it appears and inserting “any  
 12 thing or things of value”; and

13 (2) in subsection (c), by striking “anything of  
 14 value” each place it appears and inserting “any  
 15 thing or things of value”.

16 **SEC. 15. EXPANDING VENUE FOR PERJURY AND OBSTRUC-**  
 17 **TION OF JUSTICE PROCEEDINGS.**

18 (a) IN GENERAL.—Section 1512(i) of title 18, United  
 19 States Code, is amended to read as follows:

20 “(i) A prosecution under section 1503, 1504, 1505,  
 21 1508, 1509, 1510, or this section may be brought in the  
 22 district in which the conduct constituting the alleged of-  
 23 fense occurred or in which the official proceeding (whether  
 24 or not pending or about to be instituted) was intended  
 25 to be affected.”.

1 (b) PERJURY.—

2 (1) IN GENERAL.—Chapter 79 of title 18,  
3 United States Code, is amended by adding at the  
4 end the following:

5 **“§ 1624. Venue**

6 “A prosecution under section 1621(1), 1622 (in re-  
7 gard to subornation of perjury under 1621(1)), or 1623  
8 of this title may be brought in the district in which the  
9 oath, declaration, certificate, verification, or statement  
10 under penalty of perjury is made or in which a proceeding  
11 takes place in connection with the oath, declaration, cer-  
12 tificate, verification, or statement.”.

13 (2) CLERICAL AMENDMENT.—The table of sec-  
14 tions at the beginning of chapter 79 of title 18,  
15 United States Code, is amended by adding at the  
16 end the following:

“1624. Venue.”.

17 **SEC. 16. AMENDMENT OF THE SENTENCING GUIDELINES**  
18 **RELATING TO CERTAIN CRIMES.**

19 (a) DIRECTIVE TO SENTENCING COMMISSION.—Pur-  
20 suant to its authority under section 994(p) of title 28,  
21 United States Code, and in accordance with this section,  
22 the United States Sentencing Commission shall review and  
23 amend its guidelines and its policy statements applicable  
24 to persons convicted of an offense under sections 201, 641,  
25 and 666 of title 18, United States Code, in order to reflect

1 the intent of Congress that such penalties be increased  
2 in comparison to those currently provided by the guide-  
3 lines and policy statements.

4 (b) REQUIREMENTS.—In carrying out this section,  
5 the Commission shall—

6 (1) ensure that the sentencing guidelines and  
7 policy statements reflect Congress' intent that the  
8 guidelines and policy statements reflect the serious  
9 nature of the offenses described in subsection (a),  
10 the incidence of such offenses, and the need for an  
11 effective deterrent and appropriate punishment to  
12 prevent such offenses;

13 (2) consider the extent to which the guidelines  
14 may or may not appropriately account for—

15 (A) the potential and actual harm to the  
16 public and the amount of any loss resulting  
17 from the offense;

18 (B) the level of sophistication and planning  
19 involved in the offense;

20 (C) whether the offense was committed for  
21 purposes of commercial advantage or private fi-  
22 nancial benefit;

23 (D) whether the defendant acted with in-  
24 tent to cause either physical or property harm  
25 in committing the offense;

1           (E) the extent to which the offense rep-  
2           resented an abuse of trust by the offender and  
3           was committed in a manner that undermined  
4           public confidence in the Federal, State, or local  
5           government; and

6           (F) whether the violation was intended to  
7           or had the effect of creating a threat to public  
8           health or safety, injury to any person or even  
9           death;

10          (3) assure reasonable consistency with other  
11          relevant directives and with other sentencing guide-  
12          lines;

13          (4) account for any additional aggravating or  
14          mitigating circumstances that might justify excep-  
15          tions to the generally applicable sentencing ranges;

16          (5) make any necessary conforming changes to  
17          the sentencing guidelines; and

18          (6) assure that the guidelines adequately meet  
19          the purposes of sentencing as set forth in section  
20          3553(a)(2) of title 18, United States Code.

1 **SEC. 17. PERMITTING THE DISCLOSURE OF INFORMATION**  
2 **REGARDING POTENTIAL CRIMINAL ACTIVITY**  
3 **TO APPROPRIATE LAW ENFORCEMENT AU-**  
4 **THORITIES.**

5 Section 360(a) of title 28, United States Code, is  
6 amended—

7 (1) in paragraph (2), by striking “or” after the  
8 semicolon;

9 (2) in paragraph (3), by striking the period and  
10 inserting “; or”; and

11 (3) by inserting after paragraph (3) the fol-  
12 lowing:

13 “(4) disclosure of information regarding a po-  
14 tential criminal offense may be made to the United  
15 States Department of Justice, a Federal, State, or  
16 local grand jury, or Federal, State, or local law en-  
17 forcement agents.”.

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